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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/638,089 | 08/11/2000 | Danny Murphy | N-6447 | 7544 |

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EXAMINER

BUI, KIM T

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/638,089

Applicant(s)

MURPHY, DANNY

Examiner

Kim T. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/17/00 and 12/19/00.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 5-20 been renumbered 6-21.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-6, 10, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, "the information" on line 2 and "the ability" on line 4 lack clear antecedent basis;

In claim 10, "the life cycle" on line 2 lacks clear antecedent basis.

In claim 21, "apparatus of claim 1" is unclear since claim 1 recite a method.

Dependent claims 3-6 incorporate the deficiencies of independent claim 2 and are therefore rejected.

Claim Rejections - 35 USC § 102

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-3,7,12,14,17 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al (5974396).

As per claim 1, Anderson et al discloses a method for collecting demographic and product information over a network comprising the steps for:

- a. providing computer database for storing product and demographic information. See col.2, line 66 to col.3, line1; col.8, lines 44-47;
- b. storing product information in the database. See col.2, line 66 to col.3 line1;
- c. proving communication access through the wide area network. See col.7, col. 44-50, col. 9, line 5-20;
- d. collecting user identification information. See col. 4, line 19-21;
- e. storing the collected user identification in the database. See col. 3, lines 34-38;

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f. enabling user access to the product information over the wide area network.

See Fig.5, col.9, lines 3-32;

g. collecting user preference data relating to the product over the network. See col.4, line25, claim 3 of Anderson et al., col.8, line 42; col.9, line 6-10;

h. storing the preference data and other data in the database. See col.8, line 44-

47.

As per claim 2, Anderson also the ability to search information in the database over the network to report selected demographic information. See col.11, l lines 23-25.

As per claim 3, Anderson et al teaches that database queries specifying particular consumer cluster, for example, demographic information and preference data can be established. See col. 10,lines 44 to col.12, lines 25

As per claim 7, Anderson teaches on col.9, lines 33-50 software for administrative functions such as inputting, updating database, formulating queries.

As per claim 12, Anderson et al discloses a system for collecting and analyzing consumer preference information comprising:

a. a computer database for receiving and storing product and demographic data.

See col. 3, lines 24-40;

b. a wide area network communicatively connected to the computer database for collecting consumer preference information for storage. See col. 4, lines 24-25, col.7, lines 38-50, col. 9, lines 21-31;

As per claim 14, Anderson et al teaches demographic information comprising identification and preference data on col. 4, lines 23-26.

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As per claim 17, Anderson et al teaches data retrieval system for formulating queries and conducting searches on col. 10, line 44 to col. 12, line 25.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-6, 8-11, 13, 15, 16-17, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al in view of Kaplan (5963916).

As per claims 4, Anderson et al fails to teach specific demographic group as age, gender, income, and education. This difference is disclosed by Kaplan. See claim 18 of Kaplan. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the demographic information disclosed by Anderson with more specific characteristic as disclosed in Kaplan with a motivation of providing a more details consumer profile for better marketing.

As per claims 5, 15, Anderson et al fails to recite geographic parameter. This difference is suggested by Kaplan. See col. 13, line 60, col. 8, lines 35-36. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Anderson demographic data to include geographic parameter such as radio station, zip code, city, state, region, country and the world in view of the teaching of geographic

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information disclosed in Kaplan with a motivation of providing a detail consumer profile for better marketing using readily available post office identifier.

As per claims 6,16, Anderson et al fails to teach the preference data such as familiarity, passion and burn. This difference, however, is suggested by Kaplan. Kaplan teaches on col.16, line 56, Fig. 19, Fig. 42 the user rating or music preference data such as good, excellent, poor, etc.. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the preference data disclosed by Anderson et al to provide music preference data such as familiarity, passion or burn in light of the suggestion of Kaplan with a motivation of improving customer satisfaction by gathering customer feedback on the product.

As per claims 9,13, Anderson et al does not particularly teach the music industry product. But on col. 25, lines 1-5, Anderson suggest that his system can be employed in any retail, wholesales or sales environment. Kaplan teaches a system for collecting demographic and product data over wide area network in a music industry sales environment wherein the product information is music information, music type, and music genres. See col. 17, lines 7-10, col. 14, lines 4-15, col. 12, lines 5-22 of Kaplan. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Anderson et al 's system to include music product with a motivation of gaining access to the music industry and thus expanding the applicability of the system.

As per claims 8,11,19, 21, Anderson et al teaches administration such as inputting, updating database information. Anderson et al fails to teach e-mail system

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features, account issuing administrative, retrieving of song preference data. This, however, is suggested by Kaplan. Kaplan teaches e-mail system features, financial administrative function and searching/ retrieving of song preference data on col. 16, lines 21-25, Fig. 57, col. 18, lines 8-10 and col.17, lines 7-10, col. 14, lines 4-15, col. 12, lines 5-22. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Anderson et al's system to include other administration functions suggested by Kaplan with a motivation of enhancing operating features and thereby improving the system's capability.

As per claims 10, 20, Anderson et al fails to teach the life cycle tracking system for monitoring a song through various life cycle stages. This difference, however, is suggested by Kaplan. Kaplan teaches on col. 8, lines 35-36 that songs can be searched on "new releases" category. It is apparent that a life cycle of a song should be monitored to maintain an updated list of the songs in this category. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Anderson et al's system to include the life cycle song monitoring feature in view of the teaching of Kaplan with a motivation of facilitating the customer search tool and thereby improving customer satisfaction.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al in view of Bond et al (6177940)

As per claim 18, Anderson et al fails to teach the sort function in the search engine. This difference is, however, disclosed in Bond et al . Bond et al teach the sort function on in col. 3, lines 22-27, Fig. 5, col. 8, lines 17-31. It would have been obvious

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to one ordinary skill in the art at the time of the invention to modify the search of Anderson to include a sort function in the search engine which a motivation of providing the user the most relevant information in accordance to his/her preferences

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied references teach transaction apparatus and method that identifies an authorized user by appearance and voice (6023688), system for collecting data related to playback of recording (6330593), radio station program identifier and distribution system (5539635), method for customer lead selection and optimization (6078892), method for sharing video/audio data via WAN (6226672), advertisement selection system supporting discretionary target market characteristics (6216129), consumer profiling system (6298348).

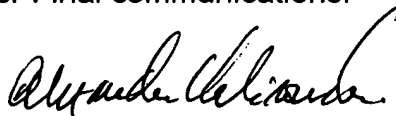
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Bui whose telephone number is 703-305-5874.

The examiner can normally be reached on Monday-Friday from 8:30A.M. to 5:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.


KTB

January 9, 2003


ALEXANDER HALIMOWSKI
PATENT EXAMINER
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